

1 THE COURT: An individual, okay. From  
2 the audience. It's not identifying the speakers which is  
3 our other problem.

4 MR. THORNTON: Correct.

5 (Playing the tape: [Inaudible]. Charles Lee  
6 Thornton, 351 Attucks, St. Louis, Missouri, 63122.  
7 I have two comments and then I had a quick  
8 question. My comment is: Is this the Negro  
9 version and is there a white man's version?  
10 Because every time someone white comes up people  
11 something different than the protocol you stated on  
12 here. So first could you answer that please for  
13 me? So -- so is there a protocol that you follow  
14 here or is it just a jackass standard? [Inaudible]

15 In reference to the addition of building will  
16 there be any excavation.

17 [Inaudible] actually quite a bit of --)

18 (End of court tape 38-07-02)

19 (Court tape 38-07-03)

20 (Playing council tape: Actually a bit of influence  
21 because now the driver [inaudible].

22 Was that -- was that --.

23 There will be very little excavation  
24 [inaudible].

25 Are you aware that in Kirkwood with the

1 jackass, plantation mentality that they have here,  
2 you can be fined for having a permit, legally  
3 within your rights to do excavation, and be  
4 arrested, handcuffed and removed from the job in  
5 Kirkwood?

6 That's not true.

7 well, it's true, but that's -- then the last  
8 thing is. Mayor, I have no problem with you  
9 sitting there looking stupid, but when you -- when  
10 you -- when you -- when you open your mouth and  
11 stop me from explaining --

12 Do you have a question for this applicant?

13 [Inaudible].

14 You are not allowing me to speak how can I --  
15 how can I --

16 Do you have a question for this applicant?

17 When we are in a plantation mentality, City of  
18 Kirkwood, with a jackass --

19 Do you have a question for this applicant?

20 If you would let me finish I would like to ask  
21 the question.

22 Ask your question.

23 If you let me finish I would like to ask the  
24 question.

25 I want you to ask your appropriate question.

1                   This is a public hearing you cannot -- I gave  
2                   you a list of words that I can use that --

3                   Ask you question.

4                   -- I'm trying to use the words.

5                   Ask your question.

6                   If you have a problem using the words then I  
7                   don't have to use them. The question is --

8                   That's enough. You're done. I asked you to  
9                   ask a question. You refused, sir. Are there any  
10                  more questions for this applicant?

11                  Are there any more applicants -- are there any  
12                  more --

13                  I have not -- I have not completed my  
14                  question.)

15                  (Stopping tape)

16                         THE COURT: You can have a seat back  
17                  there.

18                  You pay proceed.

19                  Q. (By Mr. Thornton) Based on the statements you made  
20                  earlier, was I given ample time for an opening statement  
21                  that exposed racist, plantation mentality in the City of  
22                  Kirkwood, to complete my question that I asked, that I  
23                  wanted to ask?

24                         MS. BARTH: Your Honor, I'm going to  
25                  object, he hasn't identified the statement earlier that

1 Q. And how long have you been familiar with  
2 Mr. Thornton?

3 A. Probably five of the last seven or so years.

4 Q. Okay. And were there two public hearings during  
5 the city council meeting on May 18th?

6 A. Yes.

7 Q. And can you explain what happened during the second  
8 public council meeting -- I mean, second public hearing  
9 meeting?

10 A. During the second public hearing, the hearing  
11 took -- the petitioner's made their petition and did their  
12 presentation. And then the floor was opened up to public  
13 comments at which point Mr. Thornton said he would like to  
14 make public comments.

15 Q. And did he make public comments?

16 A. As he stood up to start speaking he began talking  
17 about the plantation mentality of the City of Kirkwood, and  
18 the corruption of the city council and the mayor's  
19 jackass-like qualities.

20 Q. And at some point did the mayor ask for you to  
21 speak with Mr. Thornton?

22 A. Correct. Mr. Thornton, he said the plantation  
23 mentality one time -- and all that one time. The second  
24 time the mayor asked him to ask the petitioner a question.  
25 The petitioner -- Mr. Thornton began again with the

1     plantation mentality and the corruption of the city  
2     council, and jackass-like qualities of the mayor.

3             And the mayor asked a second time would you please  
4     ask the petitioner your question. At which point a third  
5     time Mr. Thornton started in on the jackass qualities, the  
6     corruption of the city council, and the plantation  
7     mentality.

8             And the mayor asked him a third time to get to the  
9     point, and when it didn't start, he motioned to me to  
10    intervene.

11            Q. And at that point you approached Mr. Thornton?

12            A. At that point I approached Mr. Thornton and asked  
13    him -- and asked him -- and explained to him that I was  
14    going to remove him from the council chambers.

15            Q. Okay. At this point was he under arrest?

16            A. At this point he was not.

17            Q. Okay. What happened after you approached  
18    Mr. Thornton?

19            A. Mr. Thornton nearly immediately took a position of  
20    passive resistance by sitting down in the center floor of  
21    the council chambers.

22            Q. And can you explain in what position he was lying  
23    down?

24            A. He -- at that point he wasn't lying down, he sat  
25    down facing -- facing the council, if I remember correctly.

1 Sat down on his rear, on his rear end, with his feet in  
2 front of him and put his hand back on the floor kind of  
3 partially stand -- partially up right.

4 Q. And then what happened?

5 A. I explained to Mr. Thornton that he was going to  
6 have -- I was going to have to place handcuffs on him to  
7 remove him from the council chambers. At which point he  
8 immediately laid down on his back.

9 Q. And did you ask him to stand up?

10 A. I asked him to -- first asked him to stand up and  
11 leave the council chambers. When he did not he went ahead  
12 and laid down on his back.

13 Q. Okay. And then what happened?

14 A. When he laid down on his back, I sat down next to  
15 him, asked him one more time to get up and leave. When he  
16 did not, I put one leg on either side of his head -- I  
17 kneeled down above him, put one knee on either side of his  
18 head, and began exerting pressure with my -- pressure on  
19 his mandibular angle pressure -- mandibular angle head  
20 pressure point with the tip of my thumb. All the while  
21 asking, telling him, giving him the commands to roll over  
22 and put your hands behind your back.

23 Approximately three times, if I remember correctly,  
24 three times he rolled completely over to face me again.  
25 And after the third time I realized I was getting nowhere

1 THE WITNESS: Just wait out --

2 MS. BARTH: Yes. Thank you.

3 THE COURT: Anything else on the behalf  
4 of the City?

5 MS. BARTH: The City has nothing further.

6 THE COURT: City rests?

7 MS. BARTH: Yes.

8 THE COURT: Mr. Thornton?

9 MR. THORNTON: Yes, Your Honor.

10 THE COURT: Are you going to testify  
11 yourself?

12 MR. THORNTON: Yes.

13 THE COURT: If you'll raise your right  
14 hand please?

15 CHARLIE THORNTON, having been duly sworn,  
16 testify as follows:

17 THE COURT: If you would do it where you  
18 stand because we're recording this proceedings. You can  
19 testify in the narrative.

20 You may proceed.

21 MR. THORNTON: This is Charles Lee  
22 Thornton, 351 Attucks, St. Louis, Missouri, 63122.

23 During the public hearing session I was asked to  
24 come up and speak, and therefore I did. I have the  
25 questions that I previously asked in reference to the

1 protocol because it's hard for me to follow a protocol or  
2 list, if I have a problem understanding it. And if they  
3 refuse to give me clarification.

4 The mayor refused by stating that he would not  
5 answer and give me any assistance in the protocol that they  
6 wrote, which in itself takes time, if I went onto my other  
7 question.

8 Because of the city's constant harassment, bogus  
9 tickets, document fraud and perjury, the reason I was at  
10 the meetings was to discuss with them on those issues.

11 However, when an issue comes up pertaining to the  
12 parking lot, which is the latest hearing and I made the  
13 statement if asphalt was going to be used, and I based it  
14 on the tickets that I had received that if they use asphalt  
15 equipment they could be ticketed with even having a permit.  
16 And the mayor stopped me and said that isn't true.

17 Well, that in itself is false because that's -- the  
18 tape clearly show that's what he did, along with attorney  
19 Hessel.

20 And the other public hearing when I made this  
21 statement that I had a opening statement and they even on  
22 the tape clearly states that you can make a question or  
23 comment. Now, during a public hearing when there is no  
24 time limit I believe that I had at least five seconds at  
25 least to make a opening statement before I asked the



1 question. And each time I started to make the statement  
2 the mayor interrupted me.

3 Therefore, stopping me before I can even ask the  
4 question following the five-second explanation, or even  
5 statement before my statement because based on the racist  
6 plantation mentality of the City of Kirkwood with the  
7 management qualities of a jackass, then I went directly  
8 into my question, but I was not allowed to go into that  
9 question because the mayor stopped me.

10 And I asked the mayor, even on the tape, if he  
11 would allow me to finish I would be able to ask the  
12 question. Which then he stopped me from even asking my  
13 question and leave the room.

14 During the time that they asked me to remove myself  
15 I said that my time wasn't up, I had not asked my group of  
16 questions, or allowed to make the comment. And so  
17 therefore I was denied my First Amendment Rights to speak  
18 free speech, and not allowed to speak during this public  
19 hearing meeting, using words which I clearly asked them if  
20 they had a problem with to let me know and I would not use  
21 them.

22 And that was even said -- stated in the -- in the  
23 tape. They refused to even acknowledge words that I can't  
24 use with the explanation that the mayor stated that he  
25 didn't have a definition of it, how it's applied.

1           So, Your Honor, I -- I only attempted to do what my  
2     constitutional rights allows me to do, speak during public  
3     hearing meetings, using words that are found in the  
4     dictionary, in the Bible, giving a definition of the word  
5     so they wouldn't be misconstrued, and about anyone or even  
6     the mayor that has no definition of his own of a word.

7           Therefore, my Exhibit 1 was issued to the mayor  
8     also issued to Mike Brown who sits on with the city  
9     council, and every individual, the city attorney John  
10    Hessel and city council because during my presentation I  
11    wanted them to respond to this. They refused to  
12    acknowledge it.

13           The mayor even said, he stated that he didn't even  
14    kind of remember it even, and the reason for me passing it  
15    out so that it would be understood that the words I'm  
16    trying to use would be guaranteed in my constitutional  
17    rights. And if they had a problem with it to acknowledge  
18    it to me, and that I would not use them. But they chose  
19    not to.

20           Therefore, I believe I was wrongly arrested. Thank  
21    you, Your Honor.

22                           THE COURT: Cross?

23                           CROSS-EXAMINATION

24    BY MS. BARTH:

25           Q.   Mr. Thornton, have you appealed adverse rulings

1       against you to the circuit court?

2           A.    Oh, I've been issued over a hundred so tickets, so,  
3       yes, I've appealed almost all of them.

4           Q.    How many of them are you found guilty of in the  
5       circuit court?

6           A.    In the circuit court, it changes often because when  
7       I appealed them, the City of Kirkwood (inaudible) thirty  
8       percent of the bogus tickets, so the ones that were left  
9       maybe, maybe a hundred.

10          Q.    And did you appeal the adverse ruling in the  
11       circuit court to the court of appeals?

12          A.    Yes, I did.

13          Q.    And were those rulings upheld?

14          A.    Yes, I was denied.

15          Q.    Did you appeal to the Missouri Supreme Court?

16          A.    Yes, I did.

17          Q.    And were you victorious in the supreme court?

18          A.    I was denied.

19          Q.    Okay. Have you sued the City of Kirkwood civilly  
20       for malicious prosecution?

21          A.    Yes, I have.

22          Q.    And what was the ruling on that lawsuit?

23          A.    I believe I was denied.

24          Q.    Okay. Did you appeal that ruling?

25          A.    No, this is when it gets a little tricky. I

1 believe if I haven't I'm going to. So I do not recall  
2 right now.

3 Q. I think you might be out of time to appeal that.

4 A. Thanks for your legal advice.

5 Q. How many times have you sued the City of Kirkwood,  
6 do you remember?

7 A. No, I do not recall.

8 Q. Would you say several?

9 A. Several -- well, now are you pertaining to me  
10 filing a -- to have it re-heard?

11 Q. I will rephrase the question. How many times as  
12 you, as plaintiff, have you sued the City of Kirkwood?

13 A. I'm going to have to guess, maybe three or four.

14 Q. Have you ever been victorious in any of those  
15 lawsuits?

16 A. Yes. I had decision of Crancer overturned as far  
17 as -- yes, overturned -- well, she overturn it, she made a  
18 different ruling.

19 Q. Was that as the City of Kirkwood as the Plaintiff  
20 or you as the Plaintiff? Do you not recall all your  
21 lawsuits, Mr. Thornton?

22 A. I don't have them in front of me, the Kirkwood --  
23 the City of Kirkwood has issued so many bogus tickets I do  
24 not -- I need to have them in front of me to remember them  
25 all.

1       were calling the city council and the mayor names at the  
2       city council meeting?

3           A.    I believe I was arrested in an attempt to silence  
4       me from speaking on the issues.

5           Q.    Okay. Do you believe that you were arrested  
6       because you sat down in the middle of city council  
7       chambers?

8           A.    The sitting down -- the sitting of me in the middle  
9       of the city council chambers during the public hearing  
10      meeting, which I was denied my opportunity to speak was  
11      just the aftermath of what actually is involved.

12                The root of the issue is the tickets and not  
13      allowing me to speak to. So the arresting part was just in  
14      my opinion a way to add onto the bogus tickets that the  
15      City of Kirkwood has to discredit me.

16           Q.    Mr. Thornton, have you -- have you attended and  
17      spoke at council meetings regularly for the past five to  
18      seven years?

19           A.    Well, since I received tickets in 2000, in 2001, I  
20      didn't have the court hearings until 2002, 2003, I didn't  
21      start going to the city council meetings until 2000 --  
22      after I even got the -- most of the judgments. So the most  
23      it can be is 2002, 2003. This is just end of 2005. So it  
24      can't be more than three to four years at the most that I  
25      can possibly be attending the meetings.

1 disorderly conduct. And the City would ask the Mr.  
2 Thornton be found guilty of disorderly conduct and be  
3 sentenced to jail time.

4 THE COURT: Opening, Mr. Thornton?

5 MR. THORNTON: Yes, thank you, Your  
6 Honor.

7 DEFENDANT'S OPENING STATEMENT

8 MR. THORNTON: Your Honor, what you will  
9 hear is myself being called to speak and stating jackass,  
10 jackass, jackass only in an attempt to display and explain  
11 to the city and others of the issue. But before it can be  
12 done, the evidence will show, that I was denied my rights  
13 of free speech based on saying words which the evidence  
14 will show that the mayor has no definition of.

15 And because of this I ask that the Court dismiss  
16 this, Your Honor.

17 THE COURT: Okay. You may call your  
18 first witness. We can go off the record for a minute while  
19 they're waiting, getting witnesses.

20 We're back on the record, 06CR-4926. Sir, if you  
21 come forward, raise your right hand, my court clerk will  
22 swear you in.

23 MICHAEL SWOBODA, having been duly sworn,  
24 testified as follows:

25 THE COURT: Mr. Swoboda, there is a

1 stipulation by the parties we don't need to go into all the  
2 background information that we did in the prior case.  
3 You'll be asked merely about the incident of June 15, 2006;  
4 my understanding is.

5 If you'll have the same seat in that witness chair.  
6 And again that previous testimony by witnesses in the prior  
7 case we're stipulating can be used in this case for any and  
8 all purposes necessary.

9 MS. BARTH: I don't need to go through  
10 his background and the City of Kirkwood --

11 THE COURT: Correct, that's the  
12 stipulation, all the background information including -- I  
13 would identify him for the record who's speaking.

14 MS. BARTH: Right.

15 THE COURT: But all the background  
16 information will stand as if testified to in this case by  
17 agreement.

18 MS. BARTH: Okay.

19 DIRECT EXAMINATION

20 BY MS. BARTH:

21 Q. Will you please state your name for the record?

22 A. Mike Swoboda.

23 Q. And you're the Mayor of Kirkwood; correct?

24 A. Yes, I am.

25 Q. Do you recall the events that occurred at the June